

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 204 OF 2003

Vinod Phadke,
Major, Hon.Secretary
of Goa Cricket Association,
r/o Mapusa, Goa.

... Applicant.

versus

1. Police Inspector,
Panaji Police Station,
Panaji, Goa.

2. State
through the Public Prosecutor. ... Respondents.

Mr. S. S. Kantak with Miss Rakhi M. Chodankar, Advocates
for the Applicant.

Mr. S. N. Sardessai, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 3RD OCTOBER, 2003.

ORAL JUDGMENT

By consent of the learned Counsel appearing for
the parties, this application under Section 482 of the
Code of Criminal Procedure, for striking down Condition

No.2 in the Order dated 2nd January, 2003, passed by the learned IInd Additional Sessions Judge, Panaji, is taken up for final hearing.

2. The facts in brief as are necessary for the decision of this application are stated hereunder:-

The Applicant herein was an Office Bearer of the Goa Cricket Association for the year 2000-2003. The Applicant was holding the post of Honorary Secretary of Goa Cricket Association. A complaint dated 5th December, 2003, was filed by one Dr. Shekhar Salkar, a Member of the Executive Committee of Goa Cricket Association, alleging therein misappropriation of funds for the year 1998-1999 and 1999-2000. The basis of the complaint was the Audit Report for the year ending 31st March, 1999 and 31st March, 2000. The Applicant apprehending his arrest in the said crime register on the basis of the said complaint filed an application under Section 438 of the Code of Criminal Procedure before the learned IInd Additional Sessions Judge, Panaji. The said application of the Applicant came to be registered as Bail Application No.412/2002(Anticipatory). The learned IInd Additional Sessions Judge, Panaji, by his aforesaid Order dated 2nd January, 2003, directed that in the event of the arrest of the Applicant in Crime No.207/2002, the Applicant to be released on Bail upon execution of personal bond of

Rs.15,000/- with one surety in the like amount. The learned IInd Additional Sessions Judge, Panaji, also imposed various conditions, one of which was that the Applicant shall not leave India without the previous written permission from the Court and shall leave his address at the place whenever he has gone out of the State of Goa. The present application seeks to take exception to the condition of bail which requires the Applicant to seek prior permission from the Court before leaving the territory of India. During the pendency of this application, the present Applicant had moved a Miscellaneous Application seeking permission of this Court to go abroad to which the State had no objection and accordingly the Applicant has returned back.

3. Mr. S. S. Kantak, learned Counsel appearing for the Applicant has urged before me that despite of the registration of the offence against the present Applicant, the Applicant has neither been arrested nor has he been called to the Police Station for interrogation during investigation.

4. Mr. S. N. Sardessai, learned Public Prosecutor appearing for the State has stated that the crime is still under investigation and the charge-sheet would be filed shortly. However, after obtaining instructions, the learned Public Prosecutor appearing for

the State has stated that he has no objection if the condition regarding the Applicant seeking prior permission from the Court before leaving India is struck down.

5. In view of this, Criminal Miscellaneous Application No.204 of 2003 is allowed. The condition requiring the Applicant to obtain prior written permission of the Court before leaving the territory of India is struck down while the other conditions imposed by the learned IInd Additional Sessions Judge, Panaji, are maintained.

P. V. HARDAS, J.

RD.